

PROPOSED CONSTITUTIONAL AMENDMENTS

SENATE JOINT RESOLUTIONS

S.J.R. No. 2

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the procedures for filling vacancies in certain state and district offices.

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Article IV, Section 12, of the Texas Constitution is amended to read as follows:

Sec. 12. (a) All vacancies in State or district offices, except members of the Legislature, shall be filled unless otherwise provided by law by appointment of the Governor.

(b) ~~An~~~~[which]~~ appointment of the Governor~~[if]~~ made during a ~~[its]~~ session of the Senate~~[,]~~ shall be with the advice and consent of two-thirds of the Senate present.

(c) *In accordance with this section, the Senate may give its advice and consent on an appointment of the Governor made during a recess of the Senate. To be confirmed, the appointment must be with the advice and consent of two-thirds of the Senate present. If an appointment of the Governor is made during the recess of the Senate, the Governor shall nominate the ~~[said]~~ appointee, or some other person to fill the ~~[such]~~ vacancy, ~~[shall be nominated]~~ to the Senate during the first ten days of its next session following the appointment. If the Senate does not confirm a person under this subsection, the Governor shall nominate in accordance with this section the recess appointee or another person to fill the vacancy during the first ten days of each subsequent session of the Senate until a confirmation occurs. If the Governor does not nominate a person to the Senate during the first ten days of a session of the Senate as required by this subsection, the Senate at that session may consider the recess appointee as if the Governor had nominated the appointee.*

(d) *If the Senate, at any special session, does not take final action to confirm or reject a previously unconfirmed recess appointee or another person nominated to fill the vacancy for which the appointment was made:*

(1) the Governor after the session may appoint another person to fill the vacancy; and

(2) the appointee, if otherwise qualified and if not removed as provided by law, is entitled to continue in office until the earlier of the following occurs:

(A) the Senate rejects the appointee at a subsequent session; or

(B) the Governor appoints another person to fill the vacancy under Subdivision (1) of this subsection.

(e) *If the Senate, at a regular session, does not take final action to confirm or reject a previously unconfirmed recess appointee or another person nominated to fill the vacancy for which the appointment was made, the appointee or other person, as appropriate, is considered to be rejected by the Senate when the Senate session ends.*

(f) *If an appointee is rejected, the ~~[said]~~ office shall immediately become vacant, and the Governor shall, without delay, make further nominations, until a confirmation takes place. If a person has been rejected by the Senate to fill a vacancy ~~[But should there be no confirmation during the session of the Senate], the Governor may ~~[shall]~~ not ~~[thereafter]~~ appoint the ~~[any]~~ person to fill the ~~[such]~~ vacancy or, during the term of the vacancy for which the person was rejected, to fill another vacancy in the same office or on the same board, commission, or other body.~~*

~~(g) [who has been rejected by the Senate; but may appoint some other person to fill the vacancy until the next session of the Senate or until the regular election to said office, should it sooner occur.]~~ Appointments to vacancies in offices elective by the people shall only continue until the next general election.

(h) ~~(b)~~ The Legislature by general law may limit the term to be served by a person appointed by the Governor to fill a vacancy in a state or district office to a period that ends before the vacant term otherwise expires or, for an elective office, before the next election at which the vacancy is to be filled, if the appointment is made on or after November 1 preceding the general election for the succeeding term of the office of Governor and the Governor is not elected at that election to the succeeding term.

(i) For purposes of this *section* ~~[subsection]~~, the expiration of a term of office or the creation of a new office constitutes a vacancy.

(j) An action or decision of a state board, commission, or other body or officer that would be invalid if one or more recess appointees of the Governor are considered to be invalidly holding office solely because an appointee's nomination was not confirmed or rejected by final action of the Senate at a special session is validated from the date of the action or decision if the action or decision is not invalid for any other reason. This subsection expires January 1, 1991.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 1990. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to clarify the authority of the Senate to consider certain nominees to state and district offices and to provide for filling vacancies in those offices."

Adopted by the Senate on June 5, 1990, by the following vote: Yeas 30, Nays 0.

Adopted by the House on June 6, 1990, by the following vote: Yeas 146, Nays 0.

Filed with the Secretary of State, June 8, 1990.